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PART IV.

Legislative measures and Rules thereunder.

NOTIFICATION.

No. Rl. 193—L.C. 3-36-2, dated Bangalore, 22nd September 1936.

Under Standing Order No. 49 of the Standing Orders for the conduct of business of the Mysore Legislative Council, the following Report of the Select Committee on the Bill further to amend the Mysore Agriculturists' Relief Regulation.....is published for general information.

By Order,

A. SUNDARARAJA RAO,
Secretary,
Mysore Legislative Council.

Report of the Select Committee on the Bill to amend the Agriculturists' Relief Regulation.

We, the undersigned members of the Select Committee to which the Bill to amend the Agriculturists' Relief

Regulation was referred, have considered the Bill and have now the honor to submit this our report :—

We agree to the Bill and only propose a verbal amendment to the effect that the words "in suits filed after— " be transferred to the end of the clause.

(Sd.) K. V. Anantaraman.
" B. T. Kesaviengar.
" D. H. Chandrasekharaiya
(subject to a note.)
" N. V. Narayanamurthy.
" T. Madiah Gowda
(subject to a note.*)
" A. R. Nagesvara Iyer.
" S. P. Rajagopalachari (Chairman).

A Note by Mr. D. H. Chandrasekharaiya.

The proposed amendment though simple, has obviously far-reaching results on the rights of the agriculturists. It has a close bearing on Section 2 (*c*) of the Regulation which is itself found to be rather difficult of interpretation and application and in fact, it modifies that section so as to curtail the liberty of the agriculturists to raise questions of status at any time.

2. As the principle of this amendment is already accepted by the Legislature, the Select Committee has certainly no powers to go behind it. But at the same time a clear enunciation of that principle and its proper application to different sets of circumstances deserve our careful consideration to avoid all ambiguity and indefiniteness in legislation. With this object in view, let us try to understand what the " Earliest possible opportunity" would mean in the following cases :—

(1) When a party is personally served with summons or notice as the case may be and he appears in pursuance thereof in the case, (2) when he is personally served with summons or notice and he does not appear in the case for any sufficient cause till after the decree, (3) when he is not personally served with summons or notice but the process is returned with an endorsement of service on house or on refusal and the same is held sufficient service.

*The note has not been sent by Mr. T. Madiah Gowda.

3. Of the three possible cases mentioned above, the first is the simplest to understand and the easiest to determine as to when "the earliest possible opportunity" arises. But the difficulty comes in when the circumstances of the other two cases, in which *ex parte* decrees would possibly have been passed, are taken into account. Can we say in such cases that a party has lost "the earliest possible opportunity" for raising the question of status and if not when can we say he would have it? A party who is served, as in the second case above, may be permitted by any sufficient cause from appearing in the case before the decree and to hold in such a case that he has deprived himself of "the earliest possible opportunity" would be nothing short of causing a great hardship to him. So, it would be most equitable to allow a party to raise the question of status within a given time, say a period of 30 days from the date of the decree, and to deem that period "the earliest possible opportunity" for the purpose.

The third case, in which a party is not at all personally served but the service is held sufficient for the purposes of passing an *ex parte* decree, is even harder. What is "the earliest possible opportunity" to such a person? It is unfortunately within our experience that decrees are sometimes obtained without the opposite parties ever coming to know of the filing of the suits thus frustrating the very object of the Regulation. A party after coming to know of the *ex parte* decree might not desire to file an application for setting it aside and it is not easy either to get *ex parte* decrees set aside especially after lapse of some time. But to prevent him from getting the reliefs to which he is entitled under the Regulation for no fault of his, while he suffers the decree to stand good, would not be just and proper. The purpose of the Regulation would, therefore, be served if, in such a case, a party is allowed some time, say a period of 30 days after he comes to know of the suit or decree, for the determination of the "earliest possible opportunity." The Regulation intends to give certain reliefs to the agriculturists who form the back-bone of the State and it is submitted that so long as it stands nothing should be done to whittle down its good effects.

4. In view of the foregoing reasons and circumstances, the following may be added to the proposed announcement

to explain what "the earliest possible opportunity" means:—

"The earliest possible opportunity" in the above sub-section shall (1) in suits in which a party is personally served with summons or notice and he does not appear in the case in pursuance thereof, be taken to mean any time within a period of 30 days from the date of decree and (2) in suits in which a party is not personally served with summons or notice and he does not appear in the case in pursuance thereof, be taken to mean any time within a period of 30 days from the date of his knowledge of the particular suit or decree."

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